

**Appln No. 10/715,681**  
**Amdt date February 28, 2006**  
**Reply to Office action of November 29, 2005**

**Amendments to the Drawings:**

The attached sheets of drawings include changes to FIGs. 3, 7, 9, and 11. These sheets, which include FIGs. 2, 3, 7, 9, 11, replace the original sheets including FIGs. 2, 3, 7, 9, and 11.

Attachments:           Replacement Sheets  
                          Annotated Sheets Showing Changes

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### **REMARKS/ARGUMENTS**

Claims 1-34 are pending in the above-referenced patent application.

Claims 1, 12, 17, 21, 22, and 34 have been amended to further define Applicant's invention.

This is a Response to the Office Action dated November 29, 2005 wherein the Examiner objected to the drawings for failing to identify element numbers 21, 43, 53, 69, 110, 114, 118, 120, 122, 124, 126, 128, and 106; objected the drawings for using the same reference number "54" to designate both the lamp assembly and the light head; objected to claim 21 for reciting the word "road", which should instead be "rod"; rejected claims 1, 2, 7, 8, 12, 16-18, 21, 22, 25, 26, 29, 32, and 34 under §102(e) for being anticipated by Pilaro et al. (US 2005/0084826); and the following claims for obviousness under §103(a): claims 20 and 31 over Pilaro et al. and ordinary skill in the art; claims 6, 13-15, 23, and 24 over Pilaro et al. in view of Ostler (US 6,116,900); claims 3, 4, 19, 27, and 28 under over Pilaro et al. in view of Schroer (US 3,916,880); claim 10 over Pilaro et al. in view of Baughman (U.S. 2004/0076926); claim 5 over Pilaro et al. in view of Becker et al. (US 4,952,143); claims 9 and 30 over Pilaro et al. in view of Ollett et al. (US 6,880,954); and claims 11 and 33 over Pilaro et al. in view of Gemunder et al.

In view of the amendments set forth above and the remarks that follow, reconsideration and a notice of allowance are respectfully requested.

### **Objection to the Drawings**

The drawings are objected to for failing to identify element numbers 21, 43, 53, 69, 110, 114, 118, 120, 122, 124, 126, 128, and 106 and for using the same reference number "54" to designate both the lamp assembly and the light head. In response thereto, FIGs. 3, 7, 9, and 11 have been amended to include the missing elements and new paragraphs [0035], [0036], [0040], [0045], [0054], [0062], and [0065] substituted for the same corresponding paragraphs to match the elements shown in the figures with those specified in the paragraphs. Applicant submits that no new matter has been added by the amendments.

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**§102(e) Rejection of Claims 1, 2, 7, 8, 12, 16-18, 21, 22, 25, 26, 29, 32, and 34 by Pilaro et al.**

In rejecting the claims, the Examiner contends that Pilaro et al. disclose essentially as claimed. Regarding whether Pilaro et al. discloses a lamp guide/gap regulating device, the Examiner points to paragraph [0090] in the Pilaro et al. publication.

Preliminarily, for a reference to anticipate a claimed invention under §102(e), it must adequately meet the terms of the claimed invention interpreted in light of the specification of the application. As set forth in the statute, the single prior art reference must disclose each and every element of the claim under consideration. Moreover, it cannot be rebuilt or reoriented by the utilization of Applicant's teachings in an attempt to create an anticipatory structure.

Of the rejected claims, claims 1, 12, 22, and 34 are independent claims. Claim 1 has been amended to recite a method for whitening a patient's teeth comprising the steps: (a) applying a dental whitening composition to the teeth; (b) illuminating the teeth with light from a lamp assembly; and (c) wherein the lamp assembly is maintained in a constant spacing relative to the teeth by a lamp guide, the lamp guide comprising a pair of spacer rods for insertion into the patient's mouth; each spacer rod comprising a first end having a foam pad configured to be positioned on one side of the patient's mouth and a second end coupled to the lamp assembly.

Applicant submits that the Pilaro et al. reference does not anticipate claim 1 by disclosing each and every element of the claimed method having a pair of spacer rods as recited. Among other things, while Applicant agrees that Pilaro et. al. broadly disclose a lamp guide for maintaining an appropriate spacing between the teeth and the lamp during the bleaching process, there are a variety of modes that may be employed to accomplish the spacing function, some more advantageous than others. In the present invention, Applicant has found one mode which incorporates a pair of rods for accomplishing this function. This mode is advantageous in that it provides two posts, one on each side of the mouth, and the two posts not only provide the spacing function, it also helps to steady and balance the lamp with respect to the teeth. Furthermore, Applicant does not believe a foam pad for providing a cushioned bite apparatus is disclosed by Pilaro et al.

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Accordingly, since the Pilaro et al. reference does not disclose specific improvements recited by claim 1, it cannot anticipate claim 1 as required under §102(e).

Because claims 2, 7, and 8 depend from claim 1, they too are allowable over the Pilaro et al. reference.

Independent claim 12 has been amended to recite a system for tooth bleaching comprising: (a) a bleaching composition comprising an oxidizing agent; (b) a lamp assembly comprising a light source, a light output aperture and an engagement surface; (c) a gap regulating device; and (d) wherein the bleaching composition is configured to be applied on a tooth surface of a patient and the gap regulating device is configured to couple to the patient and to the engagement surface of the lamp assembly to set a distance between the light output aperture and the tooth surface to be bleached; wherein the gap regulating device comprises a pair of rods each comprising a foam pad mounted to a first end of the rod and a second free end in abutting contact with the engagement surface of the lamp assembly.

Like claim 1 discussed above, the Pilaro et al. reference does not disclose the specific improvements incorporated in the claimed system, including a pair of rods for enhanced stability and foam pads for a cushioned bite. Reconsideration and a notice of allowance are respectfully requested.

Because claims 16-18, and 21 depend from claim 12, they too are allowable.

Independent claim 22 has been amended to recite a system for tooth bleaching comprising: (a) a tooth bleaching composition comprising an oxidizing agent; (b) a lamp assembly comprising a lamp head and a power supply box mounted on a lamp post comprising an adjustable hinge; (c) a spacer for setting a space between the lamp head and a patient's teeth; and (d) wherein the tooth bleaching composition is configured to be applied to a tooth surface to be bleached, the lamp assembly is configured to activate the oxidizing agent from the tooth bleaching composition; and the spacer is configured to set a gap between the lamp head and the patient's teeth by providing a pair of rods each comprising foam pad for a patient to bite on, a desired length for setting the gap, and a coupling end for abutting with the lamp head.

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Similar to claims 1 and 12, independent claim 22 recites a system for tooth bleaching comprising a lamp assembly comprising a pair of spacer rods each having a foam pad for a cushioned bite. Accordingly, Pilaro et al. do not anticipate claim 22 for the same reasons as discussed above for claims 1 and 12.

Because claims 25, 26, 29, and 32 depend from claim 22, they too are allowable.

Independent claim 34 has been amended to recite a system for tooth bleaching comprising: (a) a tooth bleaching composition comprising an oxidizing agent; (b) a lamp assembly comprising a lamp head and a power supply box mounted on a lamp post comprising an adjustable hinge; (c) a spacer for setting a space between the lamp head and a patient's teeth; and (d) wherein the tooth bleaching composition is configured to be applied to a tooth surface to be bleached, the lamp assembly is configured to activate the oxidizing agent from the tooth bleaching composition; and the spacer is configured to set a gap between the lamp head and the patient's teeth by securing a first end of a pair of rods between the patient's teeth and abutting a second end of the pair of rods to an engagement surface on the lamp head; and (e) wherein the light is activated for a 20 minute cycle and wherein the cycle is repeated two additional times with new bleaching composition applied each time.

Independent claim 34 is similar to claims 1, 12, and 22 in that it recites a system for tooth bleaching comprising a lamp assembly comprising a pair of spacer rods for providing enhanced stability. Applicant submits that Pilaro et al. do not anticipate claim 34 for the same reasons as claims 1, 12, and 22. Reconsideration and a notice of allowance are respectfully requested.

**§103(a) Rejection of Claims 3-6, 9-11, 13-15, 19, 20, 23, 24, 27, 28, 30, 31, and 33**

In rejecting claims 3-6, 9-11, 13-15, 19, 20, 23, 24, 27, 28, 30, 31, and 33 under §103(a) for obviousness, the Examiner relied on Pilaro et al. as a main reference and relied on ordinary skill in the art or one of the following secondary references: Ostler (US 6,116,900); Schroer (US 3,916,880); Baughman (U.S. 2004/0076926); Becker et al. (US 4,952,143); Ollett et al. (US 6,880,954); and Gemunder et al. However, none of the secondary references disclose the use of a pair of rods. As discussed above, the use of a pair of rods is advantageous in that it provides

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two posts, one on each side of the mouth, and the two posts not only provide the spacing function, it also helps to steady and balance the lamp with respect to the teeth.

Because Pilaro et al. in view of ordinary skill in the art or one of the secondary references do not teach each and every element of the claimed invention, claims 3-6, 9-11, 13-15, 19, 20, 23, 24, 27, 28, 30, 31, and 33, which depend from one of independent claims 1, 12, and 22, are patentable over the cited combination.

In view of the amendments and the remarks set forth above, reconsideration and a notice of allowance are respectfully solicited.

Should the Examiner finds it necessary to speak with Applicant's attorney, the Examiner is invited to contact the undersigned at the telephone number identified below.

Respectfully submitted,

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THD/bl

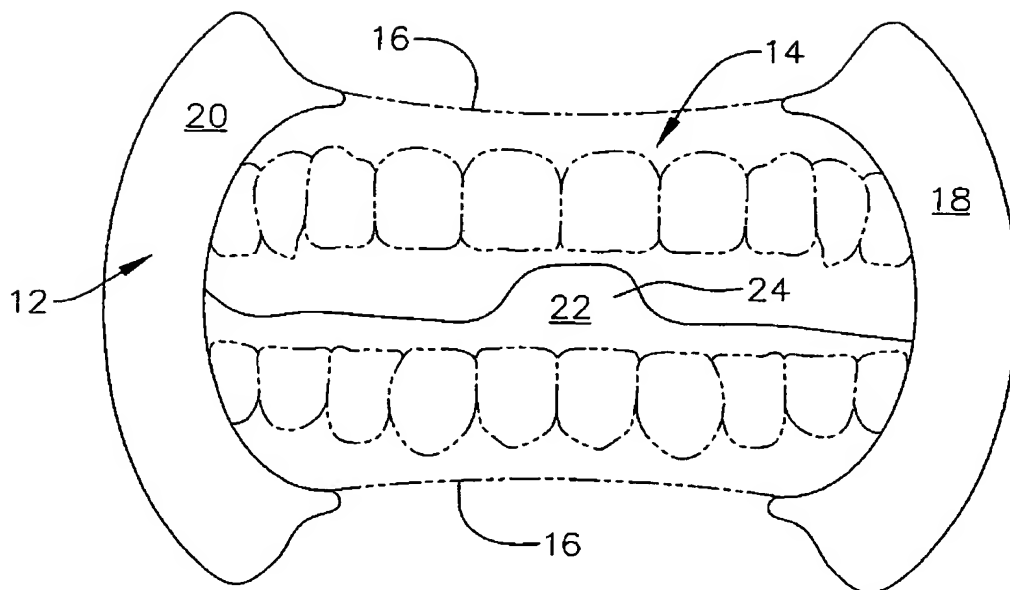
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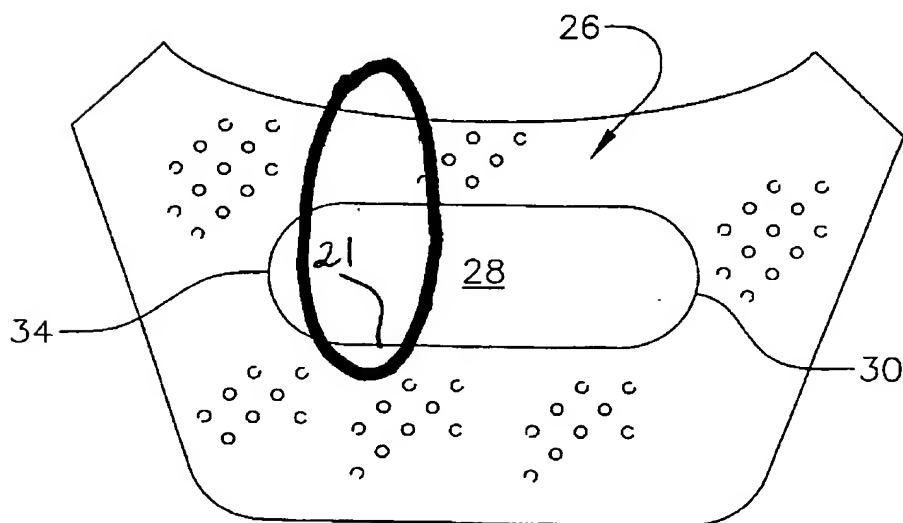
Annotated Sheet Showing Changes

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*FIG. 2*



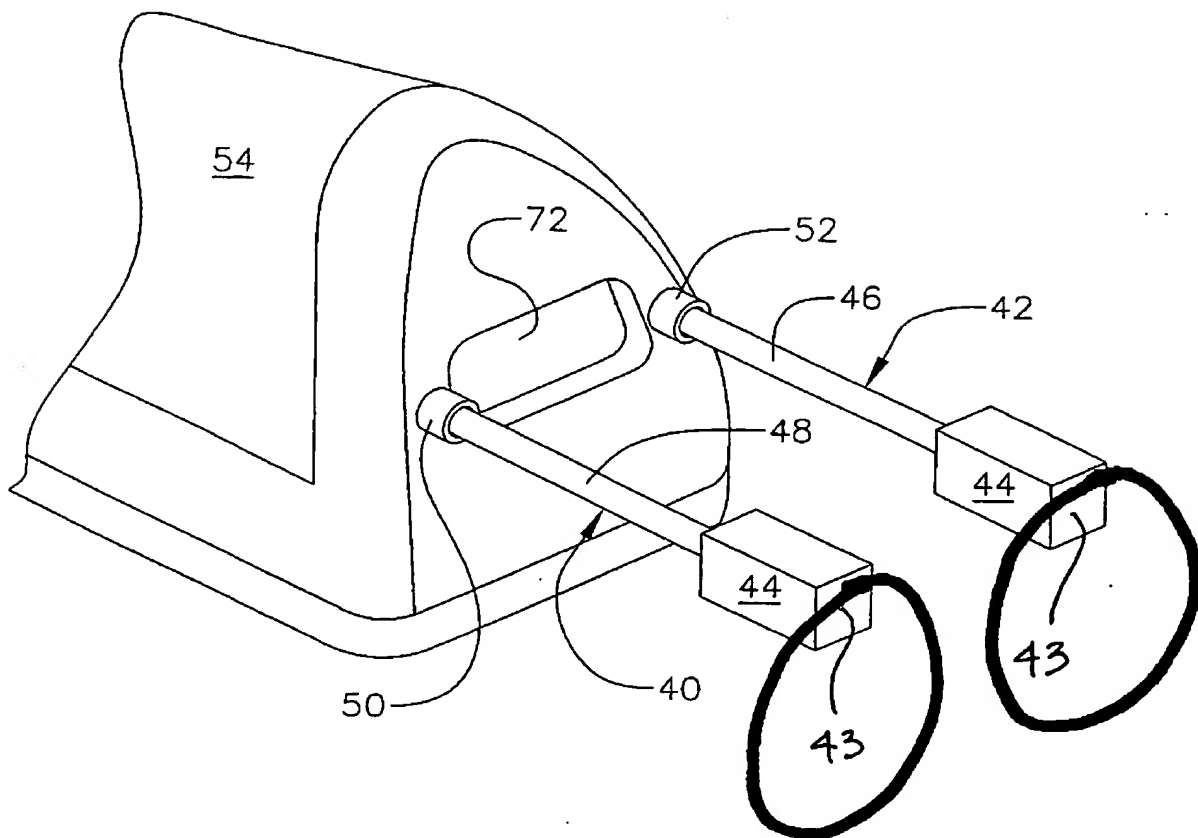
*FIG. 3*



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*FIG. 7*

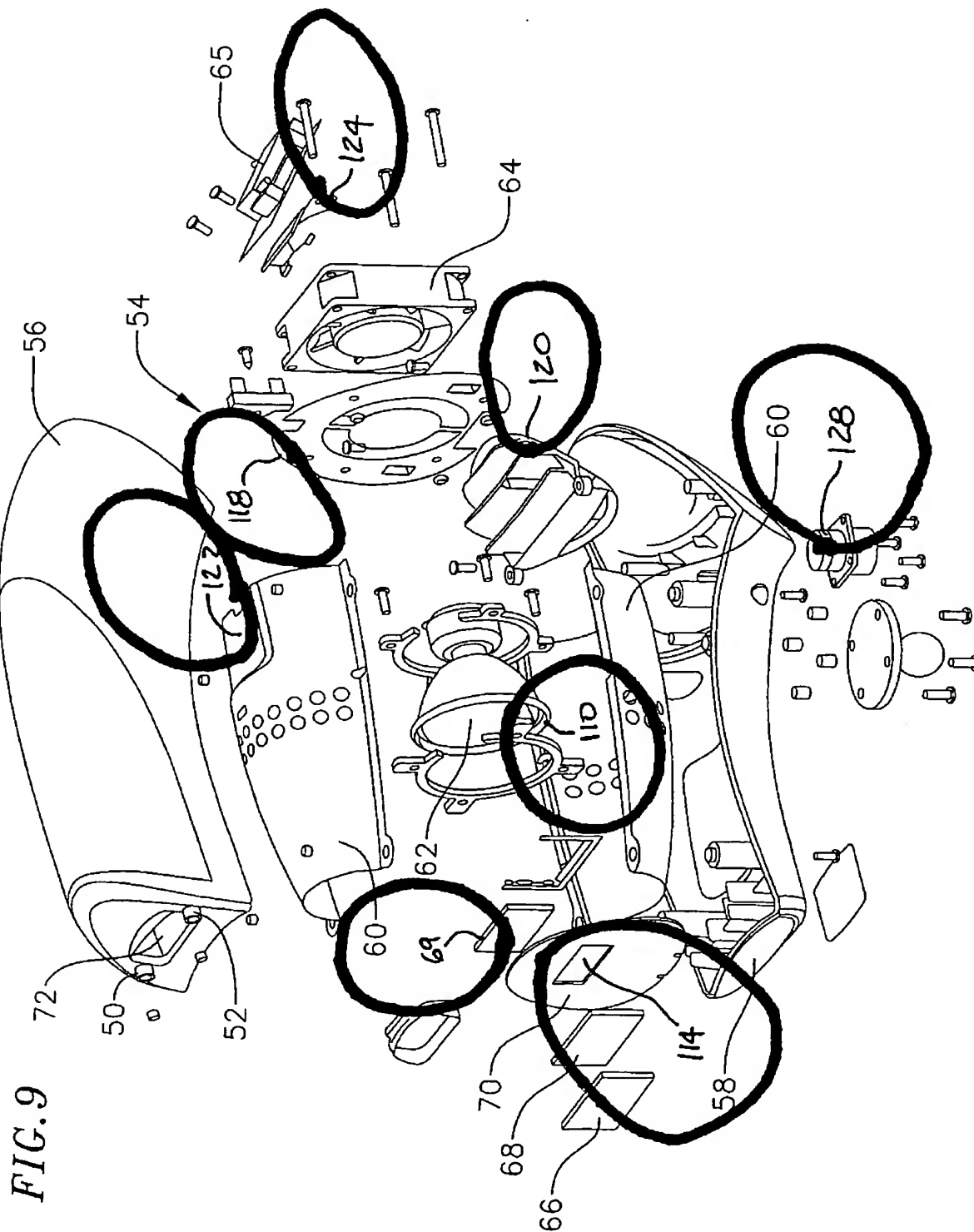




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